

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA

Plaintiff,

v.

1.8946 ACRES OF LAND, MORE OR
LESS, SITUATE IN STARR COUNTY,
STATE OF TEXAS; AND MAURO R.
GARCIA, JR., *ET AL.*

Defendants.

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CASE NO. 7:20-CV-026

STATUS REPORT

The United States files this status report in accordance with the Court's November 16, 2020 Order¹ regarding an update on the status of service in this case.

PROCEDURAL HISTORY

1. This is a condemnation case involving land in Rio Grande City, Starr County, Texas over which the United States acquired a temporary right of entry in 2020 as part of the border fence/infrastructure project.
2. On January 28, 2020, the United States filed the Notice², Complaint³ and Declaration of Taking⁴.
3. On January 28, 2020, the Court set an initial pretrial conference for April 14, 2020⁵.

However, the Court subsequently canceled this initial pretrial conference in its April 9,

¹ Dkt No. 30.

² Dkt No. 3.

³ Dkt No. 1.

⁴ Dkt No. 2.

⁵ Dkt No. 5.

2020 order⁶. The court set also set a schedule for both parties in this order as well.

4. On February 14, 2020, the United States deposited \$100.00 into the Court's Registry⁷.

Additionally, on this date, the United Sates filed its Clerk's Receipt with the Court. As a result of this filing, the United States obtained title to the temporary right of entry.

5. On February 20, 2020, the United States filed a Motion for Possession with Proposed Order⁸.

6. On March 2, 2020, the United States filed a Waiver of Service executed by Defendant Mauro Garcia with the Court⁹.

7. On April 3, 2020, the United States filed a Joint Discovery/Case Management Plan with the Court¹⁰.

8. On April 16, 2020, Defendant filed an Answer to the Complaint¹¹.

9. On June 11, 2020, the United Sates filed its Brief on Just Compensation¹².

10. On June 12, 2020, Defendant Mauro Garcia filed a Response in Opposition to the United States' Motion for Possession.¹³ On the same date, the same Defendant filed his Brief on Just Compensation.¹⁴

11. On July 2, 2020, the United States filed a status report notifying the Court that the United States had made 55 attempts trying to serve Olga Garcia in Italy and provided proof of the same.¹⁵ The United States further advised service being unable to be effectuated as a result of "refusal by recipient."

⁶ Dkt No. 13.

⁷ Dkt No. 7.

⁸ Dkt No. 8.

⁹ Dkt No. 9.

¹⁰ Dkt No. 10.

¹¹ Dkt No. 17.

¹² Dkt No. 18.

¹³ Dkt No. 19.

¹⁴ Dkt No. 20.

¹⁵ Dkt No. 21.

12. On July 7, 2020, the Court submitted an order canceling a July 14, 2020 status conference.¹⁶ The Court further directed the United States to file a motion regarding substituted service or a status report providing the court with an update on the status of service by August 14, 2020.
13. On September 11, 2020, the United States submitted its motion for substituted service to the Court, which was subsequently denied.¹⁷ However, the United States submitted an amended motion for substituted service on September 24, 2020, citing the Hague Convention as the authority to be used for substituted service.¹⁸ On September 25, 2020, the Court granted the United States proposal for an internationally agreed means of service on Olga Yolanda Garcia under the Hague Convention.¹⁹
14. On November 16, 2020, the Court filed an order directing the United States to serve Olga Yolanda Garcia by November 27, 2020 or provide good cause for its failure to do so.²⁰
15. On November 18, 2020, the United States filed a status report advising the Court of the timeline for service, the steps that have already been taken and will be taken which are necessary to properly effectuate service on Olga Yolanda Garcia.²¹ Moreover, in said status report, the United States indicated, amongst other issues, that due to Covid-19 and the nature of international service, it would take a minimum of 3-5 months to effectuate service on Olga Yolanda Garcia.
16. On November 19, 2021, in response to the United States Status report, the court submitted an order finding good cause to extend the deadline to serve Olga Yolanda Garcia.²² In

¹⁶ Dkt No. 22.

¹⁷ Dkt No. 25 and Dkt No. 26.

¹⁸ Dkt No. 27.

¹⁹ Dkt No. 28.

²⁰ Dkt No. 29.

²¹ Dkt No. 30.

²² Dkt No. 31.

said order, the court ordered a status report to be filed by May 7, 2021 to update the court on the status of service. The United States now provides that update below:

STATUS UPDATE

17. On November 20, 2020, the United States retained the translation services of The Language Bridge to translate all necessary service and court mandated documents into Italian.²³
18. The United States received the Summons, Complaint, Notice of Condemnation, Scheduling Order, Motion for Possession, Brief on Just Compensation translated into Italian on February 4, 2021. The package was done in accordance to the Hague Convention²⁴ and was sent on February 10, 2021.²⁵ The package was received by the Italian Central Authority on February 15, 2021.²⁶
19. Between April 2, 2021 and April 21, 2021, the United States received the package back from the Central Authority with a signed certificate.²⁷ The certificate indicated the Defendant was not served as the package was “refused by addressee.”²⁸
20. At this time, despite following instructions mandated by the Hague Convention and adhering to the Court’s directives, the Defendant continues to refuse service.

²³ Dkt No. 28.

²⁴ HCCH Authority (Apr. 20, 2021), *available at* <https://www.hcch.net/en/states/authorities/details3/?aid=24>.

²⁵ *See* Govt. Ex. 1.

²⁶ *Id.*

²⁷ *See* Govt. Ex. 2.

²⁸ *Id.*

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on May 4, 2021, a copy of the foregoing was electronically filed on the CM/ECF system, which will automatically serve a Notice of Electronic Filing on counsel of record.

By: *s/ Alexander N. Dergarabedian*
ALEXANDER N. DERGARABEDIAN
Assistant United States Attorney